No. 11

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Supreme Court of the United States

OCTOBER TERM, 1922

No. .....

WALLACE BENEDICT, as Receiver in Bankruptcy of the Hub Carpet Company,

Petitioner,

against

AARON RATNER,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

LOUIS S. POSNER,
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Borough of Manhattan,
New York City.

INDEX OF POINTS.

I.

Ostensible ownership arising from physical possession is the basis of the rule which obtains in some states, including New York, that a reserved right of disposal in a mortgage avoids the pledge of tangible property.

The rules which distinguish between tangible and intangible personal property run markedly through the Common Law and Statutes of England and America; and neither by reason nor authority can the language of the cases cited by petitioner, all of which deal with tangible property, be held to apply to the other. p. 5

II.

The decisions of Federal and State Courts sustain the validity of the instrument under review. p. 13

III.

The taking possession of the assigned accounts prior to the filing of the petition in bankruptcy perfected the lien thereon of the assignee, and the rights of the subsequently appointed Receiver and Trustee became subject thereto. p. 17

IV.

The good faith of the transaction is not open to question. p. 20

V.

No question of public interest is involved; dealings had with mercantile houses are always with knowledge that available bills and accounts receivable may be used to procure credit or capital.

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CONCLUSION

The law is settled in respondent's favor and the petition therefore should be denied.

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Supreme Court of the United States

WALLACE BENEDICT, as Receiver in Bankruptcy of the Hub Carpet Company, Petitioner, against AARON RATNER, Respondent.	October Term, 1921.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

The decision sought to be reviewed was rendered by the United States District Court for the Southern District of New York, Judge Learned Hand writing the opinion, and unanimously affirmed by the Circuit Court of Appeals, with opinion, Hough, Manton and Mayer, JJ., sitting.

Facts.

On May 23rd, 1921, as security to Aaron Ratner for loans to be made by him to the Hub Carpet Company, the latter executed an assignment of its accounts due or to grow due. As part of the transaction, which occurred more than four months prior to the bankruptcy, the Hub Carpet Company delivered to him a complete and detailed list of its outstanding accounts, and on the 23rd or 24th of each following month, until